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Shahab Hashemi – October 7, 2021

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 MASTER DOCKET 18-MD-2865 (LAK)
4 CASE NO. 18-CV-09797

5 IN RE:

6 CUSTOMS AND TAX ADMINISTRATION OF
7 THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
8 SCHEME LITIGATION

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12
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14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

15 EXAMINATION OF

16 SHAHAB HASHEMI

17 DATE: October 7, 2021
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23
24

25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 PROCEEDINGS

2 SHAHAB HASHEMI,

3 called as a witness, having been first
4 duly sworn according to law, testifies as follows:

5 * * * * *

6 EXAMINATION BY MR. OXFORD:

7 Q Good morning.

8 I guess it's afternoon where you
9 are, Mr. Hashemi?

10 A Just about, yes.

11 MR. BINDER: I'm sorry. Neil,
12 before we begin, I just want to -- for
13 the court reporter, we want to review
14 and sign this transcript. Thank you.

15 Q Just before I get to my questions,
16 Mr. Hashemi, I just have one objection to put
17 on the record.

18 ED&F Man produced to us late Friday
19 night some 60,000 pages of documents, about
20 11,000 documents, which appear to be accounts
21 from BNP and SEB, two of ED&F Man's
22 custodians or sub-custodians in this case.
23 We've been requesting these documents for at
24 least 18 months and have been told they
25 didn't exist.

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1 ED&F Man Capital Markets is also
2 known as ED&F MCM?

3 A It is referred to as MCM.

4 Q Okay. So if I refer in my
5 questions to ED&F or ED&F MCM, I'm referring
6 to the same entity, ED&F Man Capital Markets.

7 Do you understand that?

8 A I understand.

9 Q And the parent company of that
10 entity is ED&F Man Holdings, Limited.

11 Correct?

12 A I believe the ultimate parent to be
13 ED&F Man Holdings.

14 Q And ED&F used to have an affiliate
15 they operated in Dubai.

16 Correct?

17 A Sorry? Could you ask the question
18 again?

19 Q Sure.

20 ED&F used to have an affiliate that
21 operated out of Dubai.

22 Correct?

23 A There was a subsidiary of the
24 ultimate parent that operates in Dubai.

25 Q And that was known as MPT Dubai or

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1 Man Professional Trading Dubai.

2 Correct?

3 A Yes.

4 Q Okay.

5 A I believe the entity was ED&F Man
6 Professional Trading Dubai.

7 Q Okay. So I'll refer to that as
8 "ED&F Dubai" or "MPT Dubai."

9 Will we be on the same page if I
10 describe it thus?

11 A Yes.

12 Q ED&F also --

13 A Sorry, Mr. Oxford. I think
14 Mr. Binder was trying to say something.

15 MR. BINDER: MPT Dubai, not ED&F,
16 since it -- okay, let's just have, so as
17 not to confuse things. If you want to
18 refer to it in a shorthand, "MPT Dubai"
19 is how we refer to it. I think it
20 would -- I think it would be clearer
21 that way.

22 MR. OXFORD: Okay. Well, I have
23 the witness' answer. It seems pretty
24 clear to him.

25 A I would prefer if -- Mr. Oxford, I

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1 would prefer if you would refer to it as "MPT
2 Dubai."

3 Q Okay. I'll do my best. But when I
4 refer to it as "ED&F Dubai," please
5 understand that I'm asking you about
6 MPT Dubai.

7 Okay?

8 MR. BINDER: Objection.

9 Q Understood?

10 A I would prefer if you could use
11 MPT Dubai, but I understand what you said.

12 Q Okay. Thank you.

13 ED&F also had an affiliate in
14 Switzerland called Volcafe.

15 Correct?

16 A There was a subsidiary of the
17 ultimate parent company in Switzerland.

18 Q Called Volcafe.

19 Correct?

20 A Called Volcafe, correct.

21 Q Is Volcafe still operational today?

22 A I don't know.

23 Q Is MPT Dubai still operational
24 today?

25 A I also don't know.

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1 A An interdealer broker transacts
2 with other counterparties, but more
3 specifically, would source shares or
4 derivatives on instruction.

5 Q Did ED&F's interdealer broker ever
6 hold any proprietary positions 2012 through
7 2015?

8 MR. BINDER: Objection to form,
9 beyond the scope of his role as a
10 corporate representative for ED&F Man
11 Capital, Limited.

12 Q Do you know the answer? Yes or no,
13 sir?

14 A I don't know the answer.

15 Q Was Volcafe also an interdealer
16 broker?

17 A I believe it was.

18 Q Was MPT Dubai also an interdealer
19 broker?

20 A I do not believe MPT Dubai was an
21 interdealer broker.

22 Q What's that belief based on, sir?

23 A I have seen some prospective
24 documents of MPT Dubai.

25 Q Are you familiar with a service

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14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
15 EXAMINATION OF
16 SHAHAB HASHEMI
17 VOLUME II
18 DATE: October 8, 2021
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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 PROCEEDINGS

2

3 SHAHAB HASHEMI,,

4 called as a witness, having been first
5 duly sworn according to law, testifies as follows:

6 * * * * *

7 CONTINUED EXAMINATION BY MR. OXFORD:

8 Q Good afternoon and good morning,
9 Mr. Hashemi.

10 Could you please turn back to
11 Binder 1, Tab 28, which is the Notice of
12 Deposition?

13 A Okay.

14 Q You can turn to Topic 23, please.

15 A Okay.

16 Q Topic 23 concerns Annex E.

17 Correct?

18 A So I missed the beginning of your
19 sentence.

20 Q Topic 23 concerns Annex E.

21 Correct?

22 A I can see that, yes.

23 Q Great.

24 Tell me what you did to prepare
25 yourself on this topic.

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1 Mr. Oxford?

2 Q It's just a general question.

3 ED&F Man's position is that Annex E
4 references tax vouchers that are inaccurate.

5 I'm asking for your understanding,
6 as a corporate representative on a notice
7 topic here, whether you have any
8 understanding of what those inaccuracies are?

9 A The inaccuracies are that the tax
10 vouchers in Annex E were incorrectly
11 produced.

12 Q Can you explain what you mean,
13 "incorrectly produced?"

14 A What I mean is that they should not
15 have been produced.

16 Q Why should they not have been
17 produced?

18 A Because they are inaccurate.

19 Q In what sense are they inaccurate?

20 A Could you repeat the question,
21 please?

22 Q In what sense are they inaccurate?

23 A Because -- they were inaccurate
24 because the pension plans weren't due a
25 dividend from the company.

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1 had, right?

2 MR. OXFORD: Understood, clear, no
3 suggestion to the contrary. I think we
4 just were trying to clear up
5 certain -- basically version control
6 between the version we had marked
7 yesterday and a version of the same
8 document, which I freely acknowledge was
9 negotiated and drafted between counsel
10 for SKAT in England and counsel for
11 ED&F Man in England.

12 (Whereupon the above mentioned was
13 marked for Identification.)

14 Q Okay. So with that violate
15 agreement in place, can you take a look,
16 please, at Exhibit 4430, Mr. Hashemi?

17 A Okay. I have it in front of me.

18 Q Can you confirm that is, in fact,
19 the version of the -- that is, in fact, a
20 version of the draft Schedule of Agreed Facts
21 that you reviewed in preparation for your
22 deposition?

23 A (Witness reviewing.)

24 Yes, it appears to be the version
25 that I had reviewed.

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1 Q Okay. Are you aware of any
2 incorrect statements in this document?

3 A (Witness reviewing.)
4 I'm not aware of any incorrect
5 statements in this document.

6 Q Okay. So, from ED&F's point of
7 view, the statements in here, you believe,
8 are accurate?

9 A This document reflects ED&F Man's
10 position.

11 Q Okay. Thank you. That's helpful.
12 So can I ask you just to quickly
13 turn to Paragraphs 20 and 2 -- sorry, 21 and
14 22, which are on Page 6 of the document?

15 A Okay.

16 Q And the heading is "B-5 Contractual
17 Documentation."

18 Do you see that?

19 A I do.

20 Q And then it lists five agreements
21 that were -- withdrawn.

22 It says, "In relation to the
23 services provided by ED&F Man, ED&F Man and
24 each pension plan or GP."

25 Do you know what the reference to

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1 says.

2 Q Okay. And then there's a
3 spreadsheet at the back.

4 Can you just take a moment to
5 review the spreadsheet and tell me whether
6 you've ever seen it before?

7 A Sorry. Where am I looking for the
8 spreadsheet?

9 Q It's attached to the letter, sir.

10 A So in this -- in the binder in
11 front of me --

12 Q We even have it -- I'm told we
13 might even have it in a native Excel.

14 A Okay.

15 Q So this is Exhibit 4259.

16 A Okay. It is -- I have it open.

17 Q Great. Just take a moment and let
18 me know if you've ever seen this before.

19 A (Witness reviewing.)

20 MR. BINDER: I'm going to object
21 because you're showing this to him in a
22 format of an Excel. So, to the extent
23 he has -- he has seen this document in
24 the form it was attached to the letter,
25 I would -- I would just want the record

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1 to be clear that he's viewing this in an
2 Excel format, not as it would have been
3 attached originally as a PDF or however
4 it was delivered.

5 A (Witness reviewing.)

6 MR. OXFORD: Mr. Binder, I can note
7 for the record that your objection is
8 without foundation. Because, as
9 provided to us, I understand there was
10 not a PDF, but an Excel file.

11 MR. BINDER: All I'm saying is
12 I -- if he has seen it, he'll have to
13 answer that. I don't know whether he
14 would have seen it in Excel or in PDF.
15 So it's just -- to the extent that the
16 formatting impacts his answer, I just
17 want that noted.

18 Mr. Hashemi, if you can answer
19 Mr. Oxford's question, if you're
20 familiar with this document?

21 A Yeah, I'm just going through the
22 tabs.

23 (Witness reviewing.)

24 Mr. Oxford, this spreadsheet looks
25 familiar, and it's difficult for me to

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1 identify if I've seen this exact version,
2 and -- but the contents of this spreadsheet
3 look familiar to me.

4 Q Okay. Can you tell us if
5 this -- the data in this spreadsheet is
6 accurate?

7 A (Witness reviewing.)
8 If it's the same spreadsheet that
9 I've seen, I think it might be. I believe
10 the data in this document is accurate.

11 Q Okay. So just looking -- are you
12 on the first tab, sir, which I believe is
13 Acer?

14 A Yeah.

15 Q Okay. Do you see there's a number
16 of column headings about two-thirds of the
17 way across the page. There's one called
18 "Trading Loss on Share Acquisitions and
19 Hedging Transactions."

20 A Column I.

21 Q Yes.

22 A Yes, I see Column I.

23 Q How was -- well, withdrawn.

24 What information is contained in
25 that column?